

**UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF PUERTO RICO**

UNITED STATES OF AMERICA,

Plaintiff;

v.

COMMONWEALTH OF PUERTO RICO,
ET AL.,

Defendants.

No. 12-cv-2039 (GAG/PG)

**SUPPLEMENTAL JOINT MOTION INFORMING THE COURT OF MATTERS
RELATED TO THE AFTERMATH OF HURRICANE MARIA**

COME NOW, Plaintiff, the United States of America, and Defendants, the Commonwealth of Puerto Rico, et al., (collectively, the Parties) and hereby supplement their Joint Motion Informing the Court of Matters Related to the Aftermath of Hurricane Maria (Joint Informative Motion), filed on December 1, 2017. ECF No. 656. Since filing the Joint Informative Motion, the Parties and the Technical Compliance Advisor (TCA) have continued to assess the impact of Hurricane Maria on the infrastructure and operations of the Puerto Rico Police Bureau (PRPB) to determine whether to extend any timeframes in the Commonwealth's Action Plans, ECF No. 550-1, pursuant to Paragraph 239 of the Agreement for the Sustainable Reform of the Puerto Rico Police Department (Agreement), ECF No. 60. The Commonwealth's Action Plans set out a series of activities with timeframes in each of the eleven substantive areas of the Agreement that are designed to build the Commonwealth's capacity to implement the Agreement during an initial four-year period. *Id.* at ¶¶ 235, 240. This initial capacity building period is currently set to expire in October 2018, at which point the TCA will begin comprehensive compliance reviews to assess implementation of the Agreement. *Id.* at ¶ 242.

Based on the hurricane-related assessments completed to date, the Parties have agreed to a set of modifications that extend certain timeframes in the Commonwealth's Action Plans to account for the destruction brought by Hurricane Maria and assist the Commonwealth in its recovery and compliance efforts. The Parties discuss these hurricane-related modifications below and request that the Court hold its consideration in abeyance until April 6, 2018, while the Commonwealth considers whether to propose a global request to extend the capacity building period beyond October 2018 in all areas of the Agreement and Action Plans.

I. Background

The passage of Hurricane Maria in September 2017 brought unprecedented devastation to Puerto Rico. Puerto Rico continues to recover from the unfortunate loss of life and destruction in the aftermath of Hurricanes Maria and Irma, while continuing to face a precarious fiscal situation and other pre-existing challenges. Several weeks after the passage of Hurricane Maria, the Court observed that “[i]n light of the obvious extent of the damages sustained to the entire island and its infrastructure . . . the ongoing reform process of the [Puerto Rico Police Bureau] will have to mold itself to prevailing conditions.” Order of 10/4/17, ECF No. 624. The Court instructed the Parties, with the assistance of the Technical Compliance Advisor (TCA) and ultimate court approval, to “prospectively adopt a new framework that considers the post Maria scenario now part of the equation, and the vastly diminished resources presently available.” *Id.* at 2.

Specifically, the Court instructed the Parties to address three issues: (1) the need to revise existing deadlines in the Commonwealth's Action Plans and agree to realistic ones; (2) vital training areas that were affected or require immediate attention in the aftermath of Hurricane Maria; and (3) ongoing coordination on policy development. *Id.* The Parties

addressed these issues in a Joint Informative Motion, filed on December 1, 2017. ECF No. 656.

In the Joint Informative Motion, the Parties provided a preliminary update on the Commonwealth's recovery plans and pledged to work collaboratively to develop a new compliance framework that considers the post-Maria scenario and available resources. *Id.* at 2. The Parties further agreed to extend the training deadlines for 11 compliance-related courses due to the extensive damage sustained by PRPB's training facilities and the ongoing emergency deployment of PRPD personnel. *Id.* at 6.

The Parties and the TCA have continued to evaluate the impact of Hurricane Maria to determine whether to modify other timeframes in the Commonwealth's Action Plans. *See*, Agreement ¶ 239. For instance, on February 22, 2018, PRPB issued a report, attached hereto as Exhibit A, discussing 17 areas of the Commonwealth's Action Plans that were impacted by Hurricane Maria. The February 22 report provides the basis for many of the modifications agreed to by the Parties and discussed below. The TCA and his team of subject-matter experts also contributed other independent assessments to assist the Parties, including evaluations of PRPB's Technology and Communications Bureau, the Auxiliary Superintendency for Professional Responsibility charged with conducting administrative investigations of officers, the canine unit, and other specialized units and area commands. The Parties and the TCA also conducted joint site visits on January 22-26, 2018 and February 19-23, 2018.

On February 23, 2018, the Parties and the TCA held their monthly meeting, pursuant to Paragraph 253 of the Agreement. During the meeting, the Commonwealth informed the United States and the TCA that it was considering a global request to extend the capacity building period beyond October 2018 to cover all areas of the Agreement and Action Plans. The request would be based on the Commonwealth's hurricane-related assessments and other factors that

present ongoing challenges to the Commonwealth's compliance. The Commonwealth anticipates that it will be in a position to submit its global request to the United States and the TCA for negotiations and to the Court by April 6, 2018.

II. Hurricane-Related Modifications to Action Plan Deadlines

The Parties have agreed to modify specific deadlines in the Commonwealth's Action Plans, pursuant to Paragraph 239 of the Agreement, as part of a new compliance framework that considers the post-hurricane scenario, the availability of resources, and opportunities to increase operational capacity and efficiency. Paragraph 239 provides:

Should PRPD need to modify any of the timeframes set forth in the Action Plans, PRPD shall explain to the TCA, in writing, why such modification is necessary. For good cause, which may include budgetary or funding limitations, the TCA may extend any timeframe by up to four months. However, the TCA shall not extend the initial timeframe by more than four months without the approval of DOJ. DOJ shall not unreasonably withhold approval. Any modification to an Action Plan, including extensions approved by the TCA and DOJ, shall be filed with the Court for approval. Extensions submitted to the court shall be effective, absent further action from the Court, 30 days after submission to the court. Disputes on approval for extensions may be submitted to the Court for resolution. The Parties agree that should PRPD need to extend the time for completing an Action Plan beyond the time frame originally contemplated in the approved Action Plan for operational or budgetary reasons, such an extension shall be permitted upon agreement of the Parties and the TCA or upon leave of Court.

Agreement ¶ 239, ECF No. 60.¹ The modifications are discussed below by the corresponding Activity in the Action Plans, as submitted by the Commonwealth on June 22, 2017, ECF No. 550-1. The Parties respectfully request that the Court hold its consideration of these modifications in abeyance until April 6, 2018 to permit the Commonwealth to determine whether

¹ All references to "PRPD" in the Agreement shall refer to the Puerto Rico Police Bureau, or PRPB, which became part of the Puerto Rico Department of Public Safety under Law 20 of 2017.

it will propose a global extension to the capacity building period that will cover all areas of the Agreement and Action Plans.

A. Restoring Information Systems and Communications

The Commonwealth's Action Plan on Information Systems and Technology is designed to support implementation of other substantive areas of the Agreement and increase PRPB's operational efficiency. Agreement ¶ 218. The Parties have agreed to extend the deadlines for the following activities for the periods specified below:

1. Training Activity 1.4 to train PRPB personnel on the administration, configuration, and diagnosis of radio communications equipment. The Parties agree to extend this deadline by six months.
2. Training Activity 1.5 to train PRPB personnel on the administration and diagnosis of PRPB computer systems. The Parties agree to extend this deadline by six months.
3. Training Activity 1.6 to train PRPB personnel on the use and management of the Crime Information Warehouse and other crime statistic applications. The Parties agree to extend this deadline by six months.
4. Training Activity 1.7 to 1.9 to train PRPB personnel on access and use of the National Crime Information Center and related criminal databases. The Parties agree to extend this deadline by six months.
5. Training Activity 1.10 to 1.12 to train PRPB personnel on the use and management of crime mapping systems. The Parties agree to extend this deadline by six months.

6. Implementation Activity 1.2 to develop and implement a computer-aided dispatch system for field operations. The Parties agree to extend this deadline by 12 months from the end of the capacity building period to October 2019.
7. Implementation Activity 1.2.1 to develop and implement an information system or module to collect, store, and distribute data on the activation and mobilization of specialized tactical units. The Parties agree to extend this deadline by 12 months from the end of the capacity building period to October 2019.
8. Implementation Activity 1.2.2 to develop and implement an information system or module to collect data on arrests and searches. The Parties agree to extend this deadline by 12 months from the end of the capacity building period to October 2019.
9. Implementation Activity 1.2.3 to update all forms that will be used to collect and assess data to track statistics related to equal protection and non-discrimination. The Parties agree to extend this deadline by 12 months from the end of the capacity building period to October 2019.
10. Implementation Activity 1.3 to develop and implement an information system to maintain employee records and training information. The Parties agree to extend this deadline by 12 months from the end of the capacity building period to October 2019.
11. Implementation Activity 1.3.1 to develop and implement an information system or module to manage the performance evaluation system for PRPB employees. The Parties agree to extend this deadline by 12 months from the end of the capacity building period to October 2019.

12. Implementation Activity 1.4 to develop and implement an information system to maintain training materials, including curricula, lesson plans, and other related documents. The Parties agree to extend this deadline by 12 months from the end of the capacity building period to October 2019.
13. Implementation Activity 1.5 to develop and implement an information system to offer virtual training. The Parties agree to extend this deadline by 12 months from the end of the capacity building period to October 2019.
14. Implementation Activity 1.6 to develop an information system or module to store digital recordings of field communications. The Parties agree to extend this deadline by 12 months from the end of the capacity building period to October 2019.
15. Implementation Activity 1.7 to develop and implement an information system or module to record and store video recordings. The Parties agree to extend this deadline by 12 months from the end of the capacity building period to October 2019.
16. Implementation Activity 1.9.3 to develop a system to digitize administrative investigations and pertinent employee files. The Parties agree to extend this deadline by 12 months from the end of the capacity building period to October 2019.
17. Implementation Activity 1.10 to create a virtual library on the PRPB website. The Parties agree to extend this deadline by eight months from the end of the capacity building period to June 2019.

18. Implementation Activity 1.11 to develop and implement a mechanism to obtain comments from the public on PRPB policies through PRPB's virtual library. The Parties agree to extend this deadline by eight months from the end of the capacity building period to June 2019.

B. Completing the Staffing Study and Plan

The Commonwealth's Action Plan on Professionalization is designed to establish appropriate standards and requirements to promote professional, ethical, and respectful policing services. Agreement ¶ 12. The Parties have agreed to extend the deadlines for the following activities for the periods specified below:

1. Activity 1.2 to conduct a staffing and resource allocation study. The Parties agree to extend this deadline by four months to be completed by April 30, 2018.
2. Activity 1.3 to complete a staffing plan based on the staffing and resource allocation study. The Parties agree to extend this deadline by six months to be completed by June 30, 2018.

C. Restoring Capacity to Investigate Administrative Complaints

The Commonwealth's Action Plan on Administrative Complaints is designed to establish appropriate standards and requirements to ensure that all allegations of officer misconduct are received and are fully and fairly investigated. Agreement ¶ 159. The Parties have agreed to extend the deadline for the following activity for the period specified below:

1. Implementation Activity 1.3 to develop a system to digitize administrative investigations and pertinent employee files. The Parties agree to extend this deadline by 12 months from the end of the capacity building period to October

2019. *See* Activity 1.9.3, above, in the Information Systems and Technology Action Plan.

2. Self-Assessment Activity 1.1 to provide oversight of the administrative investigation process and ensure that such investigations are completed within 90 days, as appropriate. The Parties agree to suspend the 90-day investigation requirement for administrative complaints received between September 15, 2017 and January 8, 2018 in all Police Areas, except the Humacao Police Area, where the suspension will apply to administrative complaints received from September 15, 2017 to March 1, 2018. The Parties will determine the appropriate timeframe to complete these investigations within 45 days of the date of this filing.

D. Resuming Public Information Meetings

The Commonwealth's Action Plan on Community Interaction and Public Information is designed to create robust community relationships and support PRPB's engagement with the community to ensure collaborative problem-solving, ethical and bias-free policing, and more effective crime prevention. Agreement ¶ 205. The Parties have agreed to extend the deadline for the following activity for the period specified below:

1. Self-Assessment Activity 1.1.3.1 to provide oversight and evaluation of the Community Outreach and Public Information Program and community meetings (known in Spanish as *Encuentros Comunitarios*) in each police area. The Parties agree to extend the deadline by six months.

E. Re-Establish Training Programs

The Commonwealth's Action Plan on Training is designed to ensure that every PRPB officer and employee receives effective and comprehensive training that ensures they understand their responsibilities, the scope of their authority, and PRPB policy, and are able to fulfill these responsibilities and police effectively. Agreement ¶ 117. The Parties have agreed to extend the deadlines for the following activities for the periods specified below:

1. In-Service Training Development Activity 1 to develop training materials for the following courses:
 - a. Crisis Intervention
 - b. Intervention with Juveniles
 - c. Community Policing
 - d. Radio Communications and Computer Systems
 - e. Computer-Aided Dispatch System
 - f. Institutional Juvenile Abuse
 - g. Handling Evidence
 - h. Press
 - i. Arrests and Extraditions
 - j. Arrests and Searches

The Parties agree to extend these deadlines by four months.

2. Training Development Activity 1.8 and 1.9 of the Use of Force Action Plan to develop training for members of specialized tactical units, including the Tactical Operations Division and the Mounted Unit Division. The Parties agree to extend this deadline by four months.

III. Conclusion

The Parties have agreed to extend the timeframes above to support the Commonwealth as it continues to recover from the passage of Hurricane Maria, pursuant to Paragraph 239 of the Agreement and the Court's October 4, 2017 Order, ECF No. 624. The extensions range from four to twelve months and, in some cases, would extend beyond the capacity building period, which is set to expire in October 2018. The Parties respectfully request that the Court hold its consideration of the extensions set forth above until April 6, 2018 to permit the Parties and the TCA to consider a Commonwealth proposal to extend the capacity building period in its entirety beyond October 2018.

WHEREFORE, the Parties respectfully request that the Court take notice of the foregoing and hold its consideration of the hurricane-related extensions agreed upon by the Parties until April 6, 2018.

Respectfully submitted, this 9th day of March, 2018,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 9th of March, 2018, I filed the foregoing pleading electronically through the CM/ECF system, which caused the parties, counsel of record and the Technical Compliance Advisor on the service list to be served by electronic means.

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